Filed 2/28/19 In re R.L. CA5

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

In re R.L., a Person Coming Under the Juvenile Court Law.	
THE PEOPLE, Plaintiff and Respondent, v. R.L., Defendant and Appellant.	F077219 (Super. Ct. No. JJD069021) **OPINION**

APPEAL from orders of the Superior Court of Tulare County. Juliet L. Boccone, Judge.

Michael C. Sampson, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Carlos A. Martinez and Caely E. Fallini, Deputy Attorneys General, for Plaintiff and Respondent.

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INTRODUCTION

In 2015, appellant, a minor, admitted to one count of a lewd act on a child (Pen. Code, § 288, subd. (a); count 1). He was declared a ward of the juvenile court and placed on probation. He was ordered to participate in sex offender counseling in a group home and to comply with the rules there.

In October 2017, the probation department filed a notice of violation of probation. The notice alleged that appellant had failed to abide by the group home rules and he had failed "to progress" in the sex offender program. In December 2017, following a revocation hearing, the juvenile court found that appellant had violated his terms of probation. In March 2018, appellant was ordered to be placed with the California Department of Corrections and Rehabilitation, Division of Juvenile Justice (DJJ).[1]

On appeal, appellant contends that the juvenile court erred both in finding the violation of probation and in placing him with DJJ. We affirm both orders.

BACKGROUND

I. The Evidence Regarding The Violation Of Probation.

Two witnesses testified at the hearing regarding revocation of appellant's probation. We summarize that testimony.

A. The testimony of appellant's therapist.

Donald Kirk Weintz is a clinical director of a residential treatment facility for sex offenders. He was appellant's primary therapist. Weintz treated appellant for almost two years. They had interacted together about 10 times per month.

At the hearing, Weintz agreed that appellant did show, at times, appropriate behavior in the program. Appellant participated in his individual and group meetings. He took his medication. He did work in his group and individual sessions. He put

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[1] DJJ was formerly known as the California Youth Authority or CYA. (*People v. Superior Court (Lara)* (2018) 4 Cal.5th 299, 306.)

"effort" into them. He showed some verbal remorse for his past conduct. According to Weintz, however, appellant also "sexualized" some people, which did not show that he was remorseful. This raised question marks. Appellant also commented at times that he did not give "a crap" about what he had done or whom he had hurt. Weintz acknowledged that appellant had been struggling with "difficult things" stemming, at least in part, from his own past trauma.[2] Appellant had also received "painful and hurtful" letters from his mother after a prolonged lack of contact with her.

Throughout his testimony, Weintz expressed concern that appellant had performed inconsistently during his time at the program.[3] Weintz believed appellant showed a higher risk of reoffending. This was based on what Weintz had "seen and heard" throughout his time with appellant.

In September or October 2017, appellant was placed on a 14-day contract stemming from behavioral concerns. Weintz wrote the contract. At that point, appellant had been in the program for 18 or 19 months, and there was a "real question" whether he was doing the program legitimately. The contract was designed to get appellant's attention. According to Weintz, appellant was affecting other peers in the group. Appellant was told to follow specific goals, or he would be terminated from the program. Weintz testified that appellant began to regress, and he reverted "to antisocial behavior." Appellant was terminated from the program several months after the contract was made. Weintz initially testified it was his decision to terminate appellant from the program, but he clarified it was a decision made by the treatment team.

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[2] Weintz acknowledged that appellant had been touched sexually as a young child. Appellant's mother had not been supportive of appellant's treatment.

[3] Weintz testified that about 50 percent of the minors graduate from this program. Weintz acknowledged that it was "not unusual" for minors to fluctuate between "critical behavior" and an acceptable level. Weintz agreed that other minors in the program had behaved similarly to appellant.

Weintz said he saw some of appellant's inappropriate actions, which included "[e]xploitive behavior, bullying, [and] disrespect toward staff and peers." Weintz told the juvenile court that appellant did not always follow the rules. Weintz explained that a behavioral contract is made only after "severe inconsistencies or lack of doing the program." If such a contract is not completed, then a resident is terminated. This is communicated "upfront to probation, their parents, and the minor."

During his testimony, Weintz provided other examples of appellant's inappropriate behavior. This additional testimony is the subject of appellant's first claim on appeal.

First, Weintz explained that, in 2017, appellant was discovered carrying hidden advertisements inside his pants. These ads had pictures that resembled appellant's mother. During therapy, appellant admitted that he wanted to have sex with his mother. Weintz was concerned that appellant's "covert" behavior was deceptive. Appellant was pretending to show improvement even while hiding the ads. At the hearing, Weintz admitted that he was not the person who discovered the ads. However, he did see them at some point. Weintz believed that appellant had taken ads from newspapers, and "he had quite a few that were hidden in his room." It was sometime after this incident when appellant was placed on his behavioral contract.

Second, when explaining how appellant had regressed, Weintz stated that "incidents" had occurred. He said "staff" had witnessed these incidents, but said he also saw some of them. Appellant's counsel objected based on lack of foundation, speculation and hearsay. The juvenile court overruled the objection, stating, "This is a VOP hearing." When Weintz's testimony resumed, he did not discuss any particular incident. Weintz only commented that appellant was terminated from the program after he had regressed.

Third, when asked to explain appellant's antisocial behavior, Weintz said that a "big factor" in appellant's termination stemmed from "some younger peers that were

newer to the program and one that had autism." Appellant's counsel objected based on a lack of foundation, lack of personal knowledge, and hearsay. The juvenile court overruled the objection, stating, "You can follow-up with cross-examination." Weintz then testified, "So ultimately the bullying started to occur again covertly and started to regress back into not following rules and not functioning on prosocial behaviors all the time, depending on [whom appellant] was with."

Finally, Weintz explained that appellant's termination was also based on incidents with females. One was a teacher. In appellant's last month in the program, there were several occasions of disrespect. According to Weintz, this teacher had felt very unsafe and uncomfortable. This teacher had reported appellant's behavior "several times."

B. Testimony from appellant's probation officer.

Amanda Lemoine, appellant's probation officer, also testified at the revocation hearing. She had monthly meetings with appellant. She spoke with Weintz about appellant's behavior. Lemoine was aware that appellant was given a contract. It was her understanding that appellant had not been following instructions and he had been violating group home rules. She decided to violate appellant's probation based on a seven-day notice that she had received from the group home. She believed appellant had been in the home for about 25 months when he was terminated from the program.

During her testimony, Lemoine provided two examples of appellant's behavior. These are the subject of appellant's first claim on appeal. First, Lemoine knew that the group home had taken a camping trip. She testified that appellant had exhibited "some bullying behavior" and he was not following instructions with staff. Second, when asked to describe the rules that appellant was violating, Lemoine said "horseplay" and she could not recall the rest. She was not asked to describe the horseplay.

C. The juvenile court's ruling regarding revocation of probation.

After hearing argument from both counsel, the juvenile court made the following relevant comments:

"THE COURT: Okay. Based on what the Court heard, I do find [appellant] violated his probation.

"[¶] . . . [¶]

"What I think you are doing, [appellant], is trying to manipulate the program. And you have some unfortunate things in your past, but a lot of kids have those in their past. Those have been addressed, and you're choosing not to accept the help on those. Obviously, we're going to have to look into other programs for you. Okay?"

DISCUSSION

I. The Juvenile Court Did Not Abuse Its Discretion In Revoking Probation And Any Presumed Error Regarding The Admission Of Hearsay Evidence Was Harmless Beyond A Reasonable Doubt.

Appellant argues that the juvenile court erred when it revoked probation. He contends that only inadmissible hearsay was used to establish a revocation of probation. He seeks reversal of that order.

A. Standard of review.

An abuse of discretion standard is used to review a juvenile court's decision to modify a minor's placement. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318.) A reviewing court will not disturb the decision unless the juvenile court made a decision that was arbitrary, capricious, or patently absurd. (*Ibid.*)

B. Analysis.

Appellant contends the juvenile court abused its discretion, and violated his due process rights, in permitting the introduction of hearsay evidence in his revocation hearing. He asserts that reversal is required under *Chapman v. California* (1967) 386 U.S. 18 (*Chapman*).

In contrast, respondent primarily asserts that appellant has forfeited the hearsay argument. In the alternative, respondent claims that any error in admitting hearsay at the revocation hearing was harmless under *Chapman*.

We decline to find forfeiture in this situation. However, we reject appellant's argument that the juvenile court erred in revoking probation. Substantial admissible evidence supports the revocation order. In addition, to the extent the court erred regarding the admission of hearsay evidence, any presumed error was harmless.

1. Appellant has not forfeited this claim.

In general, a timely objection or motion is required before a verdict, finding or judgment will be reversed due to the erroneous admission of evidence. (Evid. Code, § 353, subd. (a).) To avoid forfeiture, a party must call the trial court's attention to any infringement of rights or risk losing them. (*People v. Saunders* (1993) 5 Cal.4th 580, 590 & fn. 6.)

We agree with appellant that he did not forfeit the present issue. Appellant's counsel twice objected to Weintz's testimony based on hearsay. The court overruled the first objection, stating, "This is a VOP hearing." The court overruled the second objection, stating appellant's counsel could "follow-up with cross-examination." Under these circumstances, appellant preserved this issue for appellate review. (*People v. Gomez* (2010) 181 Cal.App.4th 1028, 1033.)

2. Substantial admissible evidence supports the juvenile court's revocation order.

The parties dispute whether substantial evidence supports the revocation of probation. Both parties focus on the following testimony: (1) the discovery of the contraband in appellant's room; (2) appellant's disrespect to a female staff member; (3) appellant's "horseplay" in the group home; and (4) appellant's camping trip wherein he exhibited "bullying behavior" and a failure to follow instructions.[4] Appellant contends that only inadmissible hearsay evidence established his violation of probation.

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[4] Respondent concedes that the final two concerns, appellant's horseplay and his behavior on the camping trip, are insufficient to establish a violation of probation.

We disagree. Weintz's testimony, much of which was not hearsay, is substantial evidence supporting the juvenile court's order.

A preponderance of the evidence standard is used regarding revocation of probation in a juvenile proceeding. (Welf. & Inst. Code, § 777, subd. (c).) The evidence from the hearing "must support a conclusion the probationer's conduct constituted a willful violation of the terms and conditions of probation. [Citation.]" (*People v. Galvan* (2007) 155 Cal.App.4th 978, 982.)

Substantial evidence must support a court's finding that a probationer willfully violated a court order. (See *People v. Urke* (2011) 197 Cal.App.4th 766, 773.) When reviewing for sufficiency of the evidence in a juvenile proceeding, an appellate court examines the entire record. We must presume the existence of every fact the trier of fact could reasonably deduce from the evidence and we must make all reasonable inferences that support the finding of the juvenile court. (*In re Gary F.* (2014) 226 Cal.App.4th 1076, 1080.)

In this matter, Weintz had direct knowledge of appellant's behavior at the group home. Weintz had treated appellant for almost two years as his primary therapist. Weintz explained that appellant was placed on a behavioral contract after he had been in the program for 18 or 19 months. It was Weintz who drafted the contract. At that point, there was a "real question" whether appellant was doing the program legitimately. The contract was designed to get appellant's attention. According to Weintz, appellant was affecting other peers in the group. Appellant was told to follow specific goals, or he would be terminated from the program.

Weintz told the juvenile court that, after the contract was started, appellant reverted "to antisocial behavior." Weintz said he saw some of this behavior, which included "[e]xploitive behavior, bullying, [and] disrespect toward staff and peers." Weintz made clear that a behavioral contract, like the one given to appellant, is made

only after "severe inconsistencies or lack of doing the program." If such a contract is not completed, then a resident is terminated.

In looking for substantial evidence, we must presume the existence of every fact the juvenile court could have reasonably deduced from the evidence and we must make all reasonable inferences that support its findings. (*In re Gary F., supra,* 226 Cal.App.4th at p. 1080.) Based on Weintz's admissible testimony, the juvenile court could have reasonably deduced that appellant failed to abide by the group home rules and he was not participating in the program as required. The reasonable inferences derived from Weintz's admissible testimony support these conclusions.

This record establishes that appellant violated the terms and conditions of his probation. (See *People v. Galvan, supra,* 155 Cal.App.4th at p. 982; Welf. & Inst. Code, § 777, subd. (c).) As such, substantial evidence supports the juvenile court's revocation order. (See *People v. Urke, supra,* 197 Cal.App.4th at p. 773.) Thus, the court's decision was neither arbitrary, capricious, nor patently absurd. (See *In re Stephanie M., supra,* 7 Cal.4th at p. 318.) Accordingly, we reject any argument that the juvenile court abused its discretion in this regard.

3. Any presumed error in admitting hearsay evidence is harmless.

The parties agree, as do we, that "good cause" must be shown before testimonial hearsay may be admitted in a probation revocation hearing in lieu of live testimony. Good cause is met (1) if the declarant is unavailable; or (2) if the declarant cannot be brought to the hearing absent great difficulty or expense; or (3) if the declarant faces a risk of harm in testifying. (*People v. Arreola* (1994) 7 Cal.4th 1144, 1158–1160.) It is error to admit hearsay testimony to establish a violation of probation. (*People v. Shepherd* (2007) 151 Cal.App.4th 1193, 1202.)

Appellant argues, and respondent impliedly agrees, that the juvenile court abused its discretion when it overruled hearsay objections at the revocation hearing without first

requiring good cause. Appellant contends he was prejudiced. We disagree. Any presumed error in this regard was harmless.

The federal standard of harmless error review applies to the erroneous admission of hearsay evidence in a probation violation hearing. (*People v. Arreola, supra,* 7 Cal.4th at p. 1161.) Federal constitutional error is harmless under *Chapman, supra,* 386 U.S. 18, when the reviewing court determines beyond a reasonable doubt that the error did not contribute to the verdict. (*People v. Aranda* (2012) 55 Cal.4th 342, 367.) An error did not contribute to the verdict when the record reveals the error was unimportant in relation to everything else the fact finder considered on the issue in question. (*Yates v. Evatt* (1991) 500 U.S. 391, 403, disapproved on other grounds in *Estelle v. McGuire* (1991) 502 U.S. 62, 72, fn. 4.) In the context of a criminal trial, the issue is not whether a guilty verdict would have been rendered without the error, but whether the guilty verdict actually rendered "was surely unattributable to the error." (*Sullivan v. Louisiana* (1993) 508 U.S. 275, 279.)

In this matter, we have already determined that substantial admissible evidence supports appellant's revocation of probation. Weintz's admissible testimony, and the reasonable inferences from it, overwhelmingly establish that appellant willfully violated the terms and conditions of his probation. The brief mention of possible hearsay evidence was unimportant in relation to everything else the juvenile court considered on the issue in question. (See *Yates v. Evatt, supra,* 500 U.S. at p. 403.) In other words, the revocation of probation rendered in this matter was surely unattributable to any error. (*Sullivan v. Louisiana, supra,* 508 U.S. at p. 279.) As such, it is beyond a reasonable doubt that any error was harmless associated with the juvenile court's failure to require good cause for the admission of hearsay evidence. Accordingly, prejudice did not occur, and this claim fails.

4. Reversal is not required based on how the court determined a revocation of probation.

Finally, appellant claims that reversal is required because it is not clear how the juvenile court determined revocation of probation was warranted. He contends it is unclear whether the court would have imposed a DJJ commitment if only a single probation term, as opposed to the two alleged probation terms, had been violated. This assertion is without merit.

In finding a violation of probation, the juvenile court noted that appellant was "trying to manipulate the program." Weintz's admissible testimony, and the reasonable inferences drawn from it, establish that appellant failed to abide by the group home rules and he was not participating in the program as required. Based on this record, we can conclude that the court would have still found a violation of probation, and committed appellant to DJJ, even if the revocation was based solely on the violation of a single probation term. We will not reverse the order over this concern.

II. Substantial Evidence Supports The Juvenile Court's Placement Order.

In two separate but related arguments, appellant contends that substantial evidence does not support the juvenile court's order placing him at DJJ.

A. Background.

We provide a relevant summary of the recommendations from probation and the evidence received at the disposition hearing.

1. The recommendations from probation.

Prior to the disposition hearing, the probation department submitted a report which recommended that appellant be committed to DJJ. According to probation, appellant had been provided "intensive sex offender treatment services in a group home setting," but he had shown "minimal therapeutic progress." He had remained at a high risk level to reoffend despite being in the home for over two years.

Probation also recommended that appellant should not be returned to his mother. She had a history of not protecting victims and she had two "young children" residing in her home, including appellant's younger sister. Appellant had admitted touching this sister inappropriately.

Probation believed "a more restrictive placement option" was needed to address appellant's "sexually deviant behavior." Probation advised that, at DJJ, appellant "will have an opportunity to continue his education and participate in sex offender counseling while in a secured setting." DJJ would provide appellant with constant supervision, "while instilling discipline by holding him accountable for his actions. In addition, [appellant] will be under strict supervision and the safety and security of the community can be maintained."

2. The disposition hearing.

A contested disposition hearing occurred on March 19, 2018. At the hearing, the prosecutor sought appellant's placement at DJJ for treatment under the sex offender program. The prosecutor did not admit any evidence. Instead, the prosecutor agreed with the recommendation from probation that DJJ was appropriate. The prosecutor noted that the rates of reoffending with DJJ "are very miniscule."

At the disposition hearing, the defense called an expert to testify, Timothy Zavala, who was the executive director at a children's mental health clinic. Zavala had evaluated appellant for a placement recommendation. Zavala believed that appellant had a "low to moderate risk" of reoffending, and he was a good candidate for outpatient treatment. According to Zavala, appellant could live with a parent, a different family member, a family friend, or a foster home while attending the outpatient program. Zavala opined that outpatient treatment would be more effective than treatment at DJJ. Zavala agreed to accept appellant into his outpatient program. He believed that, if appellant was placed with his mother and appellant refused to live with her, appellant should have another placement or go back into custody. Zavala was aware that the alleged victim in this case

was appellant's younger sister, but Zavala understood that the younger sister no longer resided with appellant's mother.

Appellant's defense counsel argued that outpatient treatment with Zavala was appropriate. Appellant's mother had sought out Zavala, which showed some effort on her part. Counsel asserted that appellant's placement with his mother and outpatient treatment with Zavala would be in his best interest.

After hearing the testimony and arguments from counsel, the juvenile court noted it had dealt with appellant "for a few years." The court believed it would be "extremely dangerous" to send appellant to his mother. The court determined that appellant's mother had "lied" about events in the past, she had failed to protect other children in her home, and she did not understand appellant's issues and problems. The court made the following relevant comments:

> "THE COURT: I will say I have sent a very small amount, I believe three kids through the DJJ program. All three of them are doing quite well and never have had any recidivism problems. I toured [DJJ] and talked to the kids in the program, and they all talked about how much better the program was than anything they had had before, and they had outpatient treatment as well as group home treatment. I do believe that if [appellant] has any chance of being successful, [DJJ] is going to provide that for him."

B. Standard of review.

"No ward of the juvenile court shall be committed to [DJJ] unless the judge of the court is fully satisfied that the mental and physical condition and qualifications of the ward are such as to render it probable that he will be benefited by the reformatory educational discipline or other treatment provided by [DJJ]." (Welf. & Inst. Code, § 734.)

"The appellate court reviews a commitment decision for abuse of discretion, indulging all reasonable inferences to support the juvenile court's decision. [Citations.]" (*In re Angela M.* (2003) 111 Cal.App.4th 1392, 1396.)

C. Analysis.

Appellant argues he is entitled to a new disposition hearing because the record does not contain substantial evidence establishing that his placement was appropriate. He contends that no evidence established the programs available to him at DJJ, and substantial evidence does not show that less restrictive options were not appropriate. He relies primarily on *In re Carlos J.* (2018) 22 Cal.App.5th 1 (*Carlos J.*) and *In re Calvin S.* (2016) 5 Cal.App.5th 522 (*Calvin S.*). We reject appellant's arguments. This record supports the court's disposition order.

" 'A DJJ commitment is not an abuse of discretion where the evidence demonstrates a probable benefit to the minor from the commitment and less restrictive alternatives would be ineffective or inappropriate.' [Citation.] 'Although the DJJ is normally a placement of last resort, there is no absolute rule that a DJJ commitment cannot be ordered unless less restrictive placements have been attempted.' [Citation.]" (*In re A.R.* (2018) 24 Cal.App.5th 1076, 1080–1081.) "A juvenile court must determine if the record supports a finding that it is *probable* the minor will benefit from being committed to DJJ. [Citation.]" (*In re Jonathan T.* (2008) 166 Cal.App.4th 474, 486.) There is no requirement that the court find exactly how a minor will benefit from the commitment. (*Ibid.*)

Here, appellant, who was born in August 2001, was about five months away from turning 17 years old when the juvenile court made its placement decision. The record established that, despite treatment in the group home for over two years, it was probable that appellant would reoffend. Probation rejected appellant's placement with his mother, who had failed to exhibit appropriate behavior. Probation believed appellant needed "a more restrictive placement option" and DJJ could provide that setting. Probation advised that appellant could participate in sex offender counseling at DJJ, which would provide him with constant supervision.

The recommendations from probation support a finding it was probable appellant would benefit from being committed to DJJ. Moreover, appellant's prior behavior in the group home is substantial evidence of the rehabilitative failure of that commitment. (See, e.g., *In re Tyrone O.* (1989) 209 Cal.App.3d 145, 153 [minor's past behavior was "ample evidence" supporting the juvenile court's disposition order].) Based on the concerns associated with appellant's mother, the court was entitled to put its faith in the more structured, objective counseling programs offered by DJJ. (*Ibid.*) The court properly found that DJJ, with its specialized institutions and rehabilitative programs, offered the promise of probable rehabilitative benefit to appellant. (*Ibid*.)

Appellant's cited authorities do not assist him. First, in *Carlos J.*, a minor without a substantial record in the juvenile court system admitted to assault with a firearm and a gang enhancement. (*Carlos J., supra,* 22 Cal.App.5th at pp. 4, 7.) The probation department recommended DJJ, citing the gravity of the offense and indicating gang intervention services were warranted (but not mentioning specific programs at DJJ). (*Id.* at pp. 7–9.) The juvenile court committed the minor to DJJ, indicating it could not " 'get over the seriousness of the offense' " and noting recent changes at DJJ allowed it to " 'provide additional services . . . .' " (*Id.* at p. 9.) The Court of Appeal reversed, finding no substantial evidence of probable benefit and explaining "there must be some specific evidence in the record of the programs at the [DJJ] expected to benefit a minor." (*Id.* at p. 10, italics omitted.) The matter was remanded for a new disposition hearing. (*Id.* at p. 4.)

Carlos J. is distinguishable. Appellant had a long history with the juvenile court, which was familiar with him and his situation.[5] The court had placed appellant in a

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[5] Appellant argues that *Carlos J.* is not distinguishable because the minor there had prior contacts with police involving alcohol, resisting arrest, and attempted burglary. In addition, the minor had extensive behavioral issues at school. (*Carlos J., supra,* 22 Cal.App.5th at p. 7 & fn. 4.) Those facts, however, do not change our conclusion. *Carlos J.* is distinguishable because the juvenile court, unlike in *Carlos J.*, was very

relatively long-term commitment at the group home, which had failed. The court properly focused on appellant's specific circumstances and the belief that DJJ would meet his rehabilitative goals. "We are satisfied there is substantial evidence of probable benefit from a DJJ placement." (*In re A.R., supra,* 24 Cal.App.5th at p. 1081, fn. omitted.)

Second, in *Calvin S., supra,* 5 Cal.App.5th 522, the juvenile court declared the minor a ward of the court and committed him to DJJ. (*Id.* at p. 525.) The appellate court found an abuse of discretion because no evidence existed that placing the minor in a less restrictive alternative would be ineffective or inappropriate. (*Id.* at p. 532.) Instead, at disposition, the juvenile court had commented that allowing the minor to remain at juvenile hall was not appropriate because "juvenile hall is 'not a treatment center,' but 'a detention center.' " The statement, however, was not evidence, let alone substantial evidence supporting the disposition. (*Id.* at p. 529.)

In contrast to the situation in *Calvin S.*, this record contains substantial evidence that placing appellant in a less restrictive alternative would have been inappropriate. Serious concerns existed about appellant's mother, and treatment with Zavala was on an outpatient basis. Further, appellant had not progressed appropriately toward rehabilitation, he had performed poorly at times in the group home, he had demonstrated continuing behavioral problems, and he had a high risk of reoffending. The juvenile court's decision to commit him to DJJ rather than placing him in an outpatient program was reasonable under the circumstances.

We reject appellant's argument that the court abused its discretion in failing to consider other placement options. Appellant requested placement with his mother and

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familiar with appellant and his situation. The minor in *Carlos J.* "did not have a substantial record of involvement with the juvenile court system." (*Id.* at p. 7.)

outpatient treatment with Zavala. The court responded to that request and explained why it was inappropriate. An abuse of discretion is not present.

Finally, appellant's expert, Zavala, testified at the disposition hearing that appellant had a "low to moderate risk" of reoffending, and he was a good candidate for outpatient treatment. As the trier of fact, however, the juvenile court had the exclusive role to judge credibility. We will not set aside the court's finding just because Zavala provided contrary expert testimony. (*In re Ryan N.* (2001) 92 Cal.App.4th 1359, 1372 ["it is the exclusive province of the trier of fact to determine the credibility of a witness and the truth or falsity of the facts upon which a determination depends"].)

Based on this record, the juvenile court was satisfied that it was probable appellant would benefit "by the reformatory educational discipline or other treatment provided by [DJJ]." (Welf. & Inst. Code, § 734.) Substantial evidence demonstrates both a probable benefit to appellant by this commitment and the inappropriateness of less restrictive alternatives. (See *In re Angela M., supra,* 111 Cal.App.4th at p. 1396.) Because substantial evidence supports the court's commitment order, an abuse of discretion did not occur, and this claim fails.

DISPOSITION

The juvenile court's orders appealed from are affirmed.

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LEVY, Acting P.J.

WE CONCUR:

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POOCHIGIAN, J.

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MEEHAN, J.